

AMENDED IN SENATE APRIL 28, 2005

SENATE BILL

No. 863

Introduced by Senators Florez and Perata

February 22, 2005

An act to add Part 8.5 (commencing with Section ~~44410~~ 44415) to Division 26 of the Health and Safety Code, relating to financing ~~an air quality program~~ *projects*, by providing the funds necessary therefor through the issuance and sale of bonds in the State of California, and by providing for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

SB 863, as amended, Florez. California Clean Air Bond Act.

Under existing law, various bond acts have been approved by the voters to provide funds for projects, facilities, and programs.

This bill would enact the California Clean Air Bond Act which, if adopted, would authorize, for purposes of financing ~~an air quality program~~ *clean air quality projects*, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,150,000,000. The bill would require the Secretary of State to submit the bond act to the voters at the November ~~14~~ 7, 2006, statewide general election. *The bill would specify that the proceeds of bonds would be deposited in the California Clean Air Fund, established by this bill, and would continuously appropriate the fund to the State Air Resources Board for the purpose of funding clean air quality projects.*

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. ~~Part 8.5 (commencing with Section 44410) is added to Division 26 of the Health and Safety Code, to read:~~

~~PART 8.5. CALIFORNIA CLEAN AIR BOND ACT~~

~~CHAPTER 1. SHORT TITLE AND FINDINGS AND DECLARATIONS~~

~~44410. This part shall be known and may be cited as the California Clean Air Bond Act.~~

~~44411. The Legislature finds and declares that:~~

~~(a) California's air pollution continues to pose significant dangers to the public's health in both urban and many rural areas.~~

~~(b) California's child asthma rates are twice the national average. The diagnosis and treatment of childhood asthma can be improved through statewide standards and a database for asthma screening.~~

~~(c) Incentives for businesses to develop and implement new and innovative clean air technologies that reduce air pollution will help alleviate the air pollution problems in the state.~~

~~(d) Air pollution from agricultural sources can be reduced by encouraging alternatives to current burning, tillage, fertilizing, and other farming practices employed in some areas. Agricultural emissions have a significant effect on the ability of areas of the state, including, but not limited to, the San Joaquin Valley, to achieve health-based state and federal ambient air standards.~~

~~(e) The development of agricultural lands into urban and residential uses creates additional air quality problems. Incentives to maintain agricultural uses of land can have a positive net benefit on air quality through the absorption of carbon dioxide.~~

~~CHAPTER 2. DEFINITIONS~~

~~44412. The following definitions apply to this part:~~

~~(a) "Air pollution" means emissions of pollutants regulated by the state board and including, but not limited to, oxides of nitrogen (NO_x), hydrocarbons, particulate matter, and toxic air contaminants.~~

1 (b) ~~“Fund” means the California Clean Air Fund established~~
2 ~~pursuant to Section 44413.~~

3 (c) ~~“Projects” and “eligible projects” are projects for one or~~
4 ~~more of the following purposes:~~

5 (1) ~~The acquisition, construction, modification, or restoration~~
6 ~~of capital assets such as land and water resources, buildings, and~~
7 ~~facilities, as well as interests in these capital assets, and related~~
8 ~~costs.~~

9 (2) ~~The acquisition of equipment, tools, vehicles, vessels,~~
10 ~~long-term contracts, or other enforceable interests in capital~~
11 ~~assets necessary to achieve the objectives of the program.~~

12 (3) ~~The replacement, repowering, or rebuilding of equipment.~~

13
14 ~~CHAPTER 3. CALIFORNIA CLEAN AIR FUND~~

15
16 ~~44413. The proceeds of bonds issued and sold pursuant to this~~
17 ~~part shall be deposited in the California Clean Air Fund, which is~~
18 ~~hereby established in the State Treasury.~~

19
20 ~~CHAPTER 4. CALIFORNIA CLEAN AIR BOND PROGRAM~~

21
22 ~~44414. The state board, the Department of Food and~~
23 ~~Agriculture, and the Department of Conservation shall adopt~~
24 ~~regulations as needed for the administration of programs funded~~
25 ~~pursuant to this chapter based on the following criteria:~~

26 (a) ~~Projects shall provide cost-effective emission reductions of~~
27 ~~air pollution.~~

28 (b) ~~Projects shall contribute to public health by reducing~~
29 ~~pollution during the entire life of the project.~~

30 (c) ~~No project is eligible for funding if it is required by any~~
31 ~~local ordinance or state or federal statute, rule or regulation or~~
32 ~~any other binding order.~~

33 (d) ~~The state board, the Department of Food and Agriculture,~~
34 ~~and the Department of Conservation shall establish standards for~~
35 ~~eligible costs, appropriate matching requirements, and establish~~
36 ~~other grant and loan requirements as necessary to ensure~~
37 ~~maximum public benefits.~~

38 (e) ~~All programs established pursuant to this chapter shall~~
39 ~~include a monitoring and reporting component to allow~~

1 evaluation and modification of program requirements to achieve
2 maximum air quality improvements.

3 ~~44415. The sum of four billion dollars (\$4,000,000,000) shall~~
4 ~~be available from the fund for appropriation by the Legislature to~~
5 ~~the state board for allocation as follows:~~

6 ~~(a) Four hundred million dollars (\$400,000,000) to provide~~
7 ~~grants pursuant to Chapter 9 (commencing with Section 44275)~~
8 ~~of Part 5 to offset the cost of technologies that reduce emissions~~
9 ~~of oxides of nitrogen (NO_x), other than from farm equipment as~~
10 ~~provided for by subdivision (b).~~

11 ~~(b) One billion two hundred million dollars (\$1,200,000,000)~~
12 ~~to provide grants pursuant to Chapter 9 (commencing with~~
13 ~~Section 44275) of Part 5 to offset the cost of technologies that~~
14 ~~reduce emissions of oxides of nitrogen (NO_x) from farm~~
15 ~~equipment. Notwithstanding the provisions of that chapter or any~~
16 ~~other provision of law, for the purposes of this subdivision,~~
17 ~~engines powering farm equipment vehicles of any weight,~~
18 ~~including portable equipment, may be eligible for grants, and are~~
19 ~~not required to meet the cost-effectiveness criteria described in~~
20 ~~Section 44283.~~

21 ~~(c) Five hundred million dollars (\$500,000,000) to provide for~~
22 ~~both of the following:~~

23 ~~(1) The purchase of partial zero-emission vehicles, including,~~
24 ~~but not limited to, advanced technology partial electric vehicles~~
25 ~~popularly known as hybrid vehicles, targeted in areas of the state~~
26 ~~that have been designated as a severe or extreme nonattainment~~
27 ~~area for ozone. These incentives shall also include moneys to~~
28 ~~offset the costs of eliminating all fees that are imposed on those~~
29 ~~vehicles pursuant to the Vehicle Code.~~

30 ~~(2) The development and purchase of propane, compressed~~
31 ~~natural gas, and other alternative motor fuel technology.~~

32 ~~(d) Four hundred million dollars (\$400,000,000) to provide~~
33 ~~grants to districts, and any other public agency the state board~~
34 ~~determines has the resources, to accelerate the use of improved~~
35 ~~technology and conservation management plans prepared~~
36 ~~pursuant to the environmental quality incentives program~~
37 ~~authorized by the federal Agricultural Improvement and Reform~~
38 ~~Act of 1996 (P.L. 104-127), as amended by the federal Farm~~
39 ~~Security and Rural Investment Act of 2002 (P.L. 107-171) that~~

1 ~~enhance air quality and environmental protection in connection~~
2 ~~with agricultural activities in the state.~~

3 ~~(e) Three hundred million dollars (\$300,000,000) to provide~~
4 ~~moneys to districts for personnel and equipment to enhance the~~
5 ~~assessment and monitoring of sources of emissions of air~~
6 ~~contaminants, and the public health and environmental effects of~~
7 ~~air pollution.~~

8 ~~(f) Five hundred million dollars (\$500,000,000) to provide~~
9 ~~moneys for all of the following:~~

10 ~~(1) Grants for the purchase of new equipment for public health~~
11 ~~officials to identify, assess, intervene, and prevent respiratory~~
12 ~~illnesses created by air pollution.~~

13 ~~(2) Funding for statewide standards and a database for use in~~
14 ~~asthma screening procedures.~~

15 ~~(3) Grants to fund asthma prevention, education, screening,~~
16 ~~and treatment programs in schools.~~

17 ~~(g) Three hundred million dollars (\$300,000,000) to fund~~
18 ~~schoolbus and transit bus retrofit and engine replacement~~
19 ~~programs and cleaner bus fueling infrastructure projects.~~

20 ~~(h) Four hundred million dollars (\$400,000,000) to fund the~~
21 ~~Innovative Clean Air Technology Program.~~

22 ~~44416. The sum of four hundred million dollars~~
23 ~~(\$400,000,000) shall be available from the fund for appropriation~~
24 ~~by the Legislature to the Department of Food and Agriculture for~~
25 ~~allocation to any or all of the following programs to promote the~~
26 ~~air quality benefits resulting from those programs, based on a~~
27 ~~determination made by the department of relative need:~~

28 ~~(a) Reduction programs for concentrated animal feeding~~
29 ~~operations to install anaerobic and aerobic digesters to generate~~
30 ~~electricity from waste products.~~

31 ~~(b) Grants for any of the following:~~

32 ~~(1) Research on the effects of dairies on air quality, with~~
33 ~~specific regard to particulate matter of 2.5 and 10 microns, and~~
34 ~~reactive organic gases.~~

35 ~~(2) Lining of ponds to reduce impact on the local water tables.~~

36 ~~(3) Installation of flow-meters to control manure nutrient~~
37 ~~application.~~

38 ~~(4) Development of comprehensive nutrient management~~
39 ~~plans.~~

~~(5) Performance of groundwater monitoring and instillation required by regional water quality control boards.~~

~~(6) To support pilot projects designed to encourage the development of biogas digestion power production technologies.~~

~~(e) The California Dairy Quality Assurance Program.~~

~~44417. The sum of two hundred fifty million dollars (\$250,000,000) shall be available from the fund for appropriation by the Legislature to the Department of Conservation for allocation to either or both of the following programs in order to promote the air quality benefits of undeveloped land in the state, based on a determination made by the department of relative need:~~

~~(a) The California Farmland Conservancy Program (Division 10.2 (commencing with Section 10200) of the Public Resources Code).~~

~~(b) The Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code).~~

~~44417.5. The sum of five hundred million dollars (\$500,000,000) shall be available from the fund for appropriation by the Legislature to the State Energy Resources Conservation and Development Commission for allocation as follows:~~

~~(1) Three hundred million dollars (\$300,000,000) to provide incentives to encourage the chipping and transportation of agricultural wastes to biomass facilities that use the best available control technology (BACT) to burn those wastes and generate electricity.~~

~~(2) Two hundred million dollars (\$200,000,000) to fund the Agricultural Biomass to Energy Program established pursuant to Section 41606, which encourages the gathering, processing, and transportation of agricultural waste to biomass facilities to convert qualified agricultural waste into energy.~~

CHAPTER 5. MISCELLANEOUS

~~44418. Not more than 10 percent of funds allocated to any program funded by this part may be used to finance monitoring, research, planning, outreach or training necessary for the successful implementation of the program.~~

1 *SECTION 1. Part 8.5 (commencing with Section 44415) is*
2 *added to Division 26 of the Health and Safety Code, to read:*

3
4 *PART 8.5. CALIFORNIA CLEAN AIR BOND ACT*

5
6 *CHAPTER 1. CALIFORNIA CLEAN AIR FUND*
7

8 44415. (a) *The proceeds of bonds issued pursuant to this*
9 *part shall be deposited in the California Clean Air Fund, which*
10 *is hereby established in the State Treasury.*

11 (b) *Notwithstanding Section 13340 of the Government Code,*
12 *the moneys in the fund are hereby continuously appropriated to*
13 *the state board, without regard to fiscal year, for the purpose of*
14 *funding clean air quality projects.*

15
16 CHAPTER 2. FISCAL PROVISIONS
17

18 44419. Bonds in the total amount of five billion one hundred
19 fifty million dollars (\$5,150,000,000), or so much thereof as is
20 necessary, not including the amount of any refunding bonds, or
21 so much thereof as is necessary, may be issued and sold to
22 provide a fund to be used for carrying out the purposes expressed
23 in this part and to reimburse the General Obligation Bond
24 Expense Revolving Fund pursuant to Section 16724.5 of the
25 Government Code. The bonds, when sold, shall be and constitute
26 a valid and binding obligation of the State of California, and the
27 full faith and credit of the State of California is hereby pledged
28 for the punctual payment of the principal of, and interest on, the
29 bonds as the principal and interest become due and payable.

30 44420. The bonds authorized by this part shall be prepared,
31 executed, issued, sold, paid, and redeemed as provided in the
32 State General Obligation Bond Law (Chapter 4 (commencing
33 with Section 16720) of Part 3 of Division 4 of Title 2 of the
34 Government Code), and all of the provisions of that law; apply to
35 the bonds and to this part and are hereby incorporated in this part
36 as though set forth in full in this division.

37 44421. (a) Solely for the purpose of authorizing the issuance
38 and sale, pursuant to the State General Obligation Bond Law, of
39 the bonds authorized by this part, the California Clean Air
40 Finance Committee is hereby established. For purposes of this

1 part, the California Clean Air Finance Committee is the
2 “committee” as that term is used in the State General Obligation
3 Bond Law. The committee consists of the Treasurer, the
4 Controller, and the Director of Finance, or their designated
5 representatives. The Treasurer shall serve as chairperson of the
6 committee. A majority of the committee may act for the
7 committee.

8 (b) For purposes of the State General Obligation Bond Law,
9 each state agency that administers an appropriation from the fund
10 is designated the “board.”

11 44422. The committee shall determine whether or not it is
12 necessary or desirable to issue bonds authorized pursuant to this
13 part in order to carry out the actions specified in this part and, if
14 so, the amount of bonds to be issued and sold. Successive issues
15 of bonds may be authorized and sold to carry out those actions
16 progressively, and it is not necessary that all of the bonds
17 authorized to be issued be sold at any one time.

18 44423. There shall be collected each year and in the same
19 manner and at the same time as other state revenue is collected,
20 in addition to the ordinary revenues of the state, a sum in an
21 amount required to pay the principal of, and interest on, the
22 bonds each year. It is the duty of all officers charged by law with
23 any duty in regard to the collection of the revenue to do and
24 perform each and every act that is necessary to collect that
25 additional sum.

26 44424. Notwithstanding Section 13340 of the Government
27 Code, there is hereby appropriated from the General Fund in the
28 State Treasury, for the purposes of this part, an amount that will
29 equal the total of the following:

30 (a) The sum annually necessary to pay the principal of, and
31 interest on, bonds issued and sold pursuant to this part, as the
32 principal and interest become due and payable.

33 (b) The sum necessary to carry out Section 44425,
34 appropriated without regard to fiscal years.

35 44425. For the purposes of carrying out this part, the Director
36 of Finance may authorize the withdrawal from the General Fund
37 of an amount not to exceed the amount of the unsold bonds that
38 have been authorized by the committee to be sold for the purpose
39 of carrying out this part. Any amount withdrawn shall be
40 deposited in the fund. Any money made available under this

1 section shall be returned to the General Fund from proceeds
2 received from the sale of bonds for the purpose of carrying out
3 this part.

4 44426. All money deposited in the fund that is derived from
5 premium and accrued interest on bonds sold shall be reserved in
6 the fund and shall be available for transfer to the General Fund as
7 a credit to expenditures for bond interest.

8 44427. Pursuant to Chapter 4 (commencing with Section
9 16720) of Part 3 of Division 4 of Title 2 of the Government
10 Code, the cost of bond issuance shall be paid out of the bond
11 proceeds. These costs shall be shared proportionally by each
12 program funded through this bond act.

13 44428. The agency that administers an appropriation from the
14 fund may request the Pooled Money Investment Board to make a
15 loan from the Pooled Money Investment Account, including
16 other authorized forms of interim financing that include, but are
17 not limited to, commercial paper, in accordance with Section
18 16312 of the Government Code, for the purpose of carrying out
19 this division. The amount of the request shall not exceed the
20 amount of the unsold bonds that the committee, by resolution,
21 has authorized to be sold for the purpose of carrying out this part.
22 The requesting agency shall execute any documents required by
23 the Pooled Money Investment Board to obtain and repay the
24 loan. Any amounts loaned shall be deposited in the fund to be
25 allocated by the requesting agency in accordance with this part.

26 44429. The bonds may be refunded in accordance with
27 Article 6 (commencing with Section 16780) of Chapter 4 of Part
28 3 of Division 4 of Title 2 of the Government Code, which is a
29 part of the State General Obligation Bond Law. Approval by the
30 voters of the state for the issuance of the bonds described in this
31 part includes the approval of the issuance of any other bonds
32 issued to refund any bonds originally issued under this part or
33 any previously issued refunding bonds.

34 44430. Notwithstanding any provision of this part or the State
35 General Obligation Bond Law, if the Treasurer sells bonds
36 pursuant to this part that include a bond counsel opinion to the
37 effect that the interest on the bonds is excluded from gross
38 income for federal tax purposes, subject to designated conditions,
39 the Treasurer may maintain separate accounts for the investment
40 of bond proceeds and for the investment earnings on those

1 proceeds. The Treasurer may use or direct the use of those
2 proceeds or earnings to pay any rebate, penalty, or other payment
3 required under federal law or to take any other action with
4 respect to the investment and use of those bond proceeds
5 required or desirable under federal law to maintain the
6 tax-exempt status of those bonds and to obtain any other
7 advantage under federal law on behalf of the funds of that state.

8 44431. The Legislature hereby finds and declares that,
9 inasmuch as the proceeds from the sale of bonds authorized by
10 this part are not “proceeds of taxes,” as that term is used in
11 Article XIII B of the California Constitution, the disbursement of
12 these proceeds is not subject to the limitations imposed by that
13 article.

14 44432. *For purposes of this part, “fund” means the*
15 *California Clean Air Fund established in Section 44415.*

16 SEC. 2. This act shall become effective upon the approval by
17 the voters of the California Clean Air Bond Act, as set forth in
18 Section 1 of the act adding this section.

19 SEC. 3. Section 1 of this act shall be submitted to the voters
20 at the November—14 7, 2006, statewide general election in
21 accordance with provisions of the Government Code and the
22 Elections Code governing the submission of statewide measures
23 to the voters.

24 SEC. 4. (a) Notwithstanding any other provision of law, all
25 ballots at the election shall have printed thereon and in a square
26 thereof, the words: “California Clean Air Bond Act” and in the
27 same square under those words, the following in 8-point type:
28 “This act provides for a bond issue of five billion one hundred
29 fifty million dollars (\$5,150,000,000) to provide funds for ~~an air~~
30 ~~quality program~~ *clean air quality projects.*” Opposite the square,
31 there shall be left spaces in which the voters may place a cross in
32 the manner required by law to indicate whether they vote for or
33 against the act.

34 (b) Notwithstanding Sections 13247 and 13281 of the
35 Elections Code, the language in subdivision (a) shall be the only
36 language included in the ballot label for the condensed statement
37 of the ballot title, and the Attorney General shall not supplement,
38 subtract from, or revise that language, except that the Attorney
39 General may include the financial impact summary prepared
40 pursuant to Section 9087 of the Elections Code and Section

1 88003 of the Government Code. The ballot label is the condensed
2 statement of the ballot title and the financial impact summary.
3 (c) Where voting in the election is done by means of voting
4 machines used pursuant to law in a manner that carries out the
5 intent of this section, the use of the voting machines and the
6 expression of the voters' choice by means thereof are in
7 compliance with this section.

O